United Nations S/2006/207

# Security Council

Distr.: General
3 April 2006

Original: English

## Letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council

The Government of the Netherlands has received a letter from the President of the Special Court for Sierra Leone in which the Court seeks the consent of the Government of the Netherlands to hold the trial of Charles Taylor in the Netherlands and to facilitate the conduct of the trial (see annex I).

It is my honour to inform you in your capacity as President of the Security Council that the Government of the Netherlands has informed the Special Court for Sierra Leone that it is willing to host the Special Court for the trial of Charles Taylor, provided that a few conditions are met. These conditions are outlined in a letter from the Government of the Netherlands to the Special Court for Sierra Leone dated 29 March 2006 (see annex II). I would be grateful if you could arrange for the present letter and its annexes to be circulated as a document of the Security Council.

(*Signed*) Frank **Majoor**
Ambassador
Permanent Representative

06-29487 (E) 030406

## Annex I to the letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council

It has become apparent to me that security and issues related to the stability in the region would make it impossible for Charles Taylor, the accused in case No. SCSL-2003-01, to be tried in Freetown by the Special Court for Sierra Leone ("Special Court").

Pursuant to rule 4 of the Rules of Procedure and Evidence of the Special Court, I am empowered to authorize a Trial Chamber to exercise its functions away from the seat of the Special Court. It is my intention to exercise this power to authorize the trial of Charles Taylor to be held at a venue outside of Sierra Leone.

The cost of establishing a courtroom facility of the requisite standard in order to conduct a single trial would undoubtedly be prohibitive. I have therefore requested the Registrar of the Special Court to ascertain whether any existing international criminal court with such facilities might be in a position to make some of those facilities available to the Special Court for a limited period, on a cost-recovery basis, and in particular, whether the International Criminal Court would be in a position to assist the Special Court in this respect.

It would be necessary for the Government of the Netherlands to give its consent for any such trial to be held in the territory of the Netherlands if appropriate facilities can be made available there for use by the Special Court, and I am now writing to you to seek this consent. We would request that the Government of the Netherlands facilitate the conduct of the trial of Charles Taylor in the Netherlands, in particular by:

(a) Allowing the detention and the trial in the Netherlands of Charles Taylor by the Special Court;

(b) Facilitating the transport upon request of the Special Court of Charles Taylor within the Netherlands outside the areas under the authority of the Special Court;

(c) Enabling the appearance of witnesses, experts and other persons required to be at the Special Court under the same conditions and according to the same procedures as applicable to the International Tribunal for the Former Yugoslavia.

I would emphasize that our request to the Netherlands to host the trial of Charles Taylor extends only for the duration of the trial, including the appeal, and that Charles Taylor would need to be relocated to another State after the judgement is final. We will ensure that a subsequent location for Charles Taylor is found prior to his transfer to the Netherlands.

I would like to thank you in advance for your consideration of this request, and look forward to your response.

(*Signed*) Justice A. Raja N. **Fernando**
President
Special Court for Sierra Leone

## Annex II to the letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council

First of all, allow me to express my appreciation for the essential work of the Special Court for Sierra Leone. Now that the accused Charles Taylor has been transferred to the Special Court for Sierra Leone, the trial of Mr. Taylor will undoubtedly constitute a new and vital contribution by the Special Court to the establishment of the rule of law in Sierra Leone and the region, and to the fight against impunity in general.

With reference to the request contained in your letter dated 29 March 2006, I am pleased to inform you that the Government of the Netherlands is willing to host the Special Court for Sierra Leone for the trial of Mr. Taylor on the following conditions:

1. That the necessary legal basis is created for the Special Court to detain and conduct the trial of Mr. Taylor in the Netherlands;

2. That arrangements are in place to ensure that Mr. Taylor is transferred to a place outside of the Netherlands immediately after the final judgement of the Special Court;

3. That the Special Court ascertains that one or more of the existing international criminal courts in the Netherlands are in a position to make available appropriate facilities, including a courtroom and a detention cell, to the Special Court for the purpose of the trial of Mr. Taylor.

Furthermore, I should like to underline that all costs to be incurred as a result of the trial of Mr. Taylor in the Netherlands are expenses of the Special Court for Sierra Leone in the sense of article 6 of the Agreement between the United Nations and the Government of Sierra Leone of 16 January 2002, and that no additional costs shall be incurred by the Netherlands without its consent.

A Chapter VII resolution of the United Nations Security Council with sufficient specificity would cover the first condition for the immediate future. At the same time, we would need to conclude a headquarters agreement as soon as possible.

The second condition would require prior agreement by one or more other States to accept Mr. Taylor immediately after a final judgement. The Netherlands Government is not willing to let Mr. Taylor serve his sentence in the Netherlands in case of conviction, nor to provide him refuge in case of acquittal. Therefore, I call upon the Special Court to obtain the necessary prior agreement in this regard.

With regard to the third condition, I kindly request you to inform me as soon as the Special Court has ascertained that one or more of the existing international criminal courts in the Netherlands have agreed to make available appropriate facilities, including a courtroom and a detention cell. You may note that in the case of the International Criminal Court, this would require the approval of the Assembly of States Parties.

As regards the required office space for the Special Court, it is my understanding that the Special Court will explore whether it can avail itself of offices on the existing premises of one of the international criminal courts in the

Netherlands; I would appreciate being kept informed on progress regarding this matter.

In conclusion, Mr. President, I should like to underline that the Netherlands Government stands ready to cooperate and assist in this important endeavour.

(*Signed*) Bernard **Bot**
Minister for Foreign Affairs of the Kingdom of the Netherlands